

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

TEACHERS PROTECTIVE MUTUAL  
LIFE INSURANCE COMPANY

Claim No. CU - 2160

Decision No. CU 1758

Under the International Claims Settlement  
Act of 1949, as amended

Counsel for claimant:

Stein, Storb and Mann  
By: Alexander T. Stein, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by TEACHERS PROTECTIVE MUTUAL LIFE INSURANCE COMPANY based upon the loss of interests in bonds issued by the Cuba Northern Railways Company.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1) of the Act defines the term "national of the United States" as "(B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity."

An officer of claimant has certified that claimant is a mutual life insurance company organized in Pennsylvania and that more than fifty (50) per cent of the beneficial interest has been owned by nationals of the United States. The record reflects that claimant acquired the assets of Clergymens Co-Operative Beneficial Association, a Pennsylvania Corporation including bonds of the Cuba Northern Railways, on December 15, 1961, at the time Clergymens Co-Operative Beneficial Association was dissolved. An officer of the now-dissolved association has certified that at the time the assets were acquired by claimant on December 15, 1961, more than fifty (50) per cent of the beneficial interest had been owned by nationals of the United States. The Commission holds that claimant and Clergymens Co-Operative Beneficial Association have been nationals of the United States at all pertinent times within the meaning of Section 502(1)(B) of the Act.

On the basis of evidence of record, the Commission finds that Clergymens Co-Operative Beneficial Association was the owner on October 13, 1960 and continued to be the owner until December 15, 1961, the date claimant acquired the assets of Clergymens, of ten bonds in the original face amount of \$1,000.00 each, issued by the Cuba Northern Railways Company

and known as "First Mortgage Gold Bonds, 4%, due June 30, 1970" (originally First Mortgage Gold Bonds, 5-1/2%, due June 1, 1942), issued under an Indenture of July 1, 1927, with the First National City Bank of New York as Trustee. The Commission finds further that claimant is, and since prior to October 13, 1960, has been the owner of ten bonds in the original face amount of \$1,000.00 each issued by the Cuba Northern Railways Company of the type referred to above, that claimant acquired the ten bonds held by the Clergymens Co-Operative Beneficial Association on December 15, 1961 and that claimant has been the owner of the twenty subject bonds since December 15, 1961. The bonds in question are Nos. M-14747, M-14749, M-14751 through M-14755, M-14758 through M-14764, M-14766, M-14767, M-14776, M-14777, M-14782 and M-14783.

The Cuba Railroad Company, incorporated in the State of New Jersey, was wholly owned by Consolidated Railroads of Cuba (Ferrocarriles Consolidados de Cuba), a Cuban corporation. The Cuba Railroad Company thus would not qualify as a national of the United States under Section 502(1) of the Act (supra).

Consolidated Railroads of Cuba also owned Cuba Northern Railways Company (Ferrocarriles Del Norte de Cuba), a Cuban corporation. The latter in turn owned the majority interest in Guantanamo and Western Railroad Company (Cia. Ferrocarrilera de Guantanamo y Occidente), incorporated in the State of Maine. Thus, none of these railroads qualify as a national of the United States under Section 502(1) of the Act.

The record reflects that on April 4, 1933, Cuba declared a moratorium on mortgage indebtedness, which was later extended to June 1942. On June 4, 1940 a new Cuban Constitution was adopted, having certain "Transitory Provisions" which extended the maturity date on mortgage indebtedness in excess of \$800,000.00 to June 30, 1970 and provided for interest at 1% and amortization by certain annual installments.

In 1952, pursuant to a "Plan for Readjustment of Bonded Debt of the Company", claimant and its predecessor in interest surrendered its 5-1/2% Gold Bonds and received in exchange, twenty (20) First Mortgage Gold Bonds 4%, due June 30, 1970. The interest on these bonds was payable on June 1 and December 1 of each year. The last payment of interest on these bonds was made on December 1, 1958.

The record shows that Cuba Northern Railways Company was nationalized by Cuban Law 890, published in the Cuban Official Gazette on October 13, 1960. Claimant's bonds and those of its predecessor in interest, therefore, represented the debt of a nationalized enterprise as defined in Section 502(3) of the Act. (supra).

The Commission concludes that as a result of the nationalization of the properties of the Cuba Northern Railways Company, claimant and its predecessor in interest suffered a loss in connection with their bonds within the meaning of Title V of the Act. (See Claim of Kentucky Home Mutual Life Insurance Company, Claim No. CU-1339.)

Evidence of record established that the subject bonds had an outstanding principal balance of \$12,700.00 on October 13, 1960, the date of loss.

The Commission therefore finds that the amount of the unpaid indebtedness on claimant's bonds, and those to which it succeeded, on October 13, 1960, the date of loss, was \$13,651.20, including the principal amounts of \$635.00 on each bond, and the interest due on each of the twenty (20) bonds in the amount of \$47.56 for the period December 1, 1958 to October 13, 1960.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of loss sustained and succeeded to by claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any greater or lesser amounts which may be asserted by the claimant as the extent thereof.

CERTIFICATION OF LOSS

The Commission certifies that TEACHERS PROTECTIVE MUTUAL LIFE INSURANCE COMPANY, succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirteen Thousand Six Hundred Fifty-One Dollars and Twenty Cents (\$13,651.20) with interest thereon at 6% per annum from October 13, 1960 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

APR 24 1962

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU-2160

NOTICE TO TREASURY DEPARTMENT: The above-listed bonds may have been returned to claimant and no payment should be made until they are resubmitted.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.